

EXHIBIT 30

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Adv.Pro.No.
08-01789(BRL)

Debtor.

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IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff
Investment Securities LLC,

Plaintiff,

Adv.Pro.No.
09-1182(BRL)

v.

J. EZRA MERKIN, GABRIEL CAPITAL,
L.P., ARIEL FUND LTD., ASCOT
PARTNERS, L.P., GABRIEL CAPITAL
CORPORATION,

Defendants.

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VIDEOTAPED DEPOSITION of JOSHUA L. NASH, as
taken by and before NANCY C. BENDISH, Certified
Court Reporter, RMR, CRR and Notary Public of the
States of New York and New Jersey, at the offices of
WEIL, GOTSHAL & MANGES, 767 Fifth Avenue, New York,
New York on Thursday, October 18, 2012, commencing
at 2:11 p.m.

1 A. I don't recall.

2 Q. Based on your review of the account
3 statements, were you able to understand the strategy
4 that Mr. Madoff was using?

5 MS. PRINC: Object to form.

6 A. No.

7 Q. Did you discuss this with your
8 father?

9 A. Yes.

10 Q. What did you discuss?

11 A. We discussed how we didn't understand
12 how, by buying stocks, selling calls and buying
13 puts, one would have made money every month.

14 Q. Did you reach out to anyone at BLMIS
15 after reviewing the statements?

16 A. I didn't.

17 Q. Did your father?

18 A. He didn't reach out.

19 Q. Okay. What did he do?

20 A. He told Mr. Spring, who had
21 introduced him, that he wanted to get his money back
22 because he didn't understand how the money was being
23 made, thanked him for the introduction, but that he
24 was going to withdraw his account.

25 Q. And how did Mr. Spring react to this

1 discussion?

2 MS. PRINC: Object to form.

3 A. I don't recollect.

4 Q. Did you ever visit Mr. Madoff at his
5 office after reviewing the account statements?

6 A. Yes.

7 Q. Did you go with your father?

8 A. Yes.

9 Q. How many times did you visit
10 Mr. Madoff at his office?

11 A. Once, I believe.

12 Q. Do you know the approximate date of
13 that meeting?

14 A. On or around the time that my father
15 withdrew, closed the account. So I would guess
16 eight months after this was signed, but that's an
17 approximation.

18 Q. Do you know how that meeting was set
19 up?

20 A. Yes.

21 Q. How?

22 A. Mr. Spring told my father that if he
23 was willing to come over, Mr. Madoff would like to
24 explain how he made his money.

25 Q. Did you ask Mr. Madoff how he was

1 able to make the money?

2 MR. ALLERHAND: Why don't you
3 describe what happened at the meeting, rather
4 than...

5 A. My father and I went over to the
6 Lipstick Building, met with Mr. Madoff, Mr. Madoff
7 discussed his money making -- excuse me, market
8 making activities, as well as discussed some option
9 activities. And that was the substance of him
10 discussing his investment approach.

11 Q. Did Mr. Madoff describe to you his
12 investment strategy?

13 MS. PRINC: Object to form.

14 A. Vaguely. He said he had lots of
15 orders coming through, had a view and a look at the
16 market through a lot of orders that he got from
17 brokers, both in stocks and options and, therefore,
18 he was able to put these positions on.

19 Q. Were you satisfied with his
20 explanation?

21 MS. PRINC: Object to form.

22 Q. Let me rephrase. Were you
23 comfortable with his explanation?

24 A. No.

25 MS. PRINC: Object to form.

1 Q. Why were you not comfortable with his
2 explanation?

3 A. It wasn't, it wasn't clear to us how
4 he made the money. It also wasn't clear to us how
5 all these trades translated into individual
6 accounts.

7 Q. Did you ask Mr. Madoff how all the
8 trades translated into individual accounts?

9 A. Yes. Either I asked or my father
10 asked. I don't recall which of us asked.

11 Q. What was Mr. Madoff's response?

12 A. Something to the effect of, I
13 wouldn't worry about that because it all balances at
14 the end of the year. Balances or evens out,
15 something to that, I don't remember the exact words,
16 but that was the gist of it.

17 Q. What was your reaction to that
18 explanation by Mr. Madoff?

19 MS. PRINC: Object to form.

20 A. I don't know what my reaction -- I
21 don't know what the specific reaction was, but from
22 a business that was used to a formula of how one
23 allocated trades, it wasn't -- didn't seem a
24 satisfactory answer.

25 Q. Is there anything else you recall

1 about the meeting that you had with your father and
2 Mr. Madoff that we haven't already covered?

3 A. We had some discussion about the
4 accounting firm. My father in particular raised the
5 issue that why didn't Mr. Madoff have what at the
6 time was the Big Eight, a Big Eight accounting firm
7 for customer money.

8 Q. What is the Big Eight accounting firm
9 for customer money?

10 A. Well, there used to be. Now it's
11 what, the Big Four, the Big Three? There used to
12 be --

13 MR. ALLERHAND: The Final Four.

14 A. Final Four. There used to be eight
15 accounting firms that were regarded as the top major
16 firms, the Deloittes, Touche Ross. Many of these
17 have merged. Alan Andersen.

18 MR. ALLERHAND: Arthur Andersen.

19 A. Arthur Andersen. So that's what he
20 was referring to.

21 Q. Did your father expect that
22 Mr. Madoff would use one of the Big Eight accounting
23 firms?

24 MS. PRINC: Object to form.

25 A. We used Deloitte and most of the

1 partnerships we invested in used major accounting
2 firms.

3 Q. And why is that?

4 A. Whether it was true or not, it gave a
5 certain sense of satisfaction and comfort to
6 investors.

7 Q. When did you find out about
8 Mr. Madoff's accounting firm?

9 A. When my father asked the question --

10 Q. At the meeting?

11 A. -- at the meeting.

12 Q. Do you know who that accounting firm
13 was?

14 A. It had two or three names in it that
15 I didn't recognize.

16 Q. Were you concerned that Mr. Madoff
17 was not using one of the Big Eight accounting firms?

18 MS. PRINC: Object to form.

19 A. Yes.

20 Q. Why were you concerned?

21 A. Because most other firms used Big
22 Eight accounting firms and they were firms that one
23 knew about. Didn't mean they couldn't make
24 mistakes, but they were large, independent,
25 reputable firms.

1 Q. What did you know about Mr. Madoff's
2 accounting firm?

3 A. Nothing.

4 Q. Did it concern you that you knew
5 nothing about Mr. Madoff's accounting firm?

6 MS. PRINC: Object to form.

7 A. Yes.

8 Q. Did you at any time learn that
9 Mr. Madoff began the practice of exiting all
10 investments and holding only treasury bills at the
11 end of each quarter?

12 MS. PRINC: Object to form.

13 A. Yes.

14 Q. When did you become aware of that?

15 A. Don't recall.

16 Q. How did you become aware of that?

17 A. Don't recall.

18 Q. What was your reaction?

19 MS. PRINC: Object to form.

20 A. Didn't make sense.

21 Q. Why didn't it make sense?

22 A. Because I don't know what would be
23 magic about an end of a quarter or end of the year
24 that would, as part of an investment strategy, would
25 have one go to cash always at that period.

1 Q. So, did you see any reason why any
2 trading strategy would involve consistently exiting
3 the market at the end of every quarter?

4 MS. PRINC: Object to form.

5 A. I can't think of one.

6 Q. Why do you think Mr. Madoff
7 purportedly exited the market at the end of each
8 quarter?

9 MS. PRINC: Object to form.

10 A. No idea.

11 Q. Do you think that reduced
12 transparency into how Mr. Madoff's investment
13 strategy worked?

14 MS. PRINC: Object to form.

15 MR. ALLERHAND: I just have an
16 objection. He's here as a fact witness, not to
17 speculate as to why Mr. Madoff did or didn't do
18 certain things. I mean, any question you want to
19 ask about what he knows, what he discussed, what he
20 thought at the time. But I don't think he's here as
21 an expert witness to speculate as to why Madoff did
22 or didn't do certain things.

23 Q. Did your father withdraw his money
24 from BLMIS?

25 A. Yes.

1 Q. Do you know when that was?

2 A. I said, approximately eight months
3 after investing. Eight, ten, something like that.

4 Q. Why did your father redeem his
5 investment with BLMIS?

6 A. He wasn't comfortable.

7 Q. Do you know how much money your
8 father invested with BLMIS?

9 A. Something around a million, a million
10 and a half dollars, something of that size.

11 Q. Do you know how much money your
12 father redeemed from BLMIS?

13 A. He redeemed the investment plus the
14 profit that was generated over that eight, ten,
15 12-month period.

16 Q. Do you know how much profit he
17 redeemed?

18 A. I recall it was approximately 12 or
19 14 percent.

20 Q. Did you know anyone else who was
21 invested at BLMIS?

22 A. Over the years I've met people who
23 were invested.

24 Q. Who?

25 A. Mr. Merkin. Mr. Spring, others.

1 Q. Who is Mr. Merkin?

2 A. Who is? He is represented by counsel
3 here. He is an individual in the State of New York
4 who was an investor and managed a series of
5 partnerships.

6 Q. Did your father know Mr. Merkin?

7 A. Yes.

8 Q. Can you describe your father's
9 relationship with Mr. Merkin?

10 MS. PRINC: Object to form.

11 A. My father knew his father and so, I
12 believe, met Mr. Ezra Merkin first through his
13 father and then through investing, Wall Street.

14 Q. Can you describe your relationship
15 with Mr. Merkin.

16 A. Long relationship, knew him very
17 well. Used to talk to him about investments. Would
18 occasionally see him socially. Invested together in
19 some things.

20 Q. What investments would you and
21 Mr. Merkin talk about?

22 A. Lots of investments. We served on
23 investment committees together, so we would talk
24 about investments that that particular institution
25 had, as well as prospective investments, other

1 managers. So, many investments.

2 Q. When did you first meet Mr. Merkin?

3 A. In mid to late '80s.

4 Q. How did you meet Mr. Merkin?

5 A. I was doing risk arbitrage at a firm
6 and he was doing risk arbitrage at a firm, and I
7 don't remember exactly, but we met somewhere.

8 Q. Approximately how often did you meet
9 Mr. Merkin in person?

10 A. I don't recall. It also depends very
11 much on what time period.

12 Q. In the '80s did you meet with him in
13 person?

14 A. Rarely, if at all.

15 Q. How about in the early 1990s?

16 A. Not often.

17 Q. In the late 1990s did you meet with
18 Mr. Merkin?

19 A. More often, maybe -- again, this is a
20 recollection from ancient histories -- maybe once --
21 make it three, four times a year.

22 Q. And since 2000 how often have you met
23 with Mr. Merkin?

24 A. I would guess in 2000 to 2007 or '8,
25 maybe once a month, because we were on committees

1 A. We discussed that it had an
2 investment with Madoff, how much it had, and what
3 would happen to the fund going forward.

4 Q. When did you learn that Gabriel
5 Capital was invested with Madoff?

6 A. That night when I called him after
7 Madoff was arrested.

8 Q. How did you react to finding that
9 Gabriel Capital was invested with Madoff?

10 MS. PRINC: Object to form.

11 A. I was shocked and not pleased.

12 Q. Why were you shocked and not pleased?

13 A. I wasn't pleased because I just lost
14 some money. And I was shocked because I thought I
15 knew Ezra well and thought I knew what he did and
16 didn't expect to have Madoff in that fund.

17 Q. What did Mr. Merkin do that made you
18 surprised that he had Madoff in that fund?

19 MS. PRINC: Object to form.

20 A. Well, I wouldn't say it's what he
21 did, but he was an investor. I'd known him for a
22 long time. I had known him as an investor both in
23 risk arbitrage, which he began with, as well as
24 distressed debt. And I thought that was the
25 principal investing activities of Gabriel Capital.

1 Q. You thought risk arbitrage and
2 distressed debt were the principal investment
3 activities of Gabriel Capital?

4 A. Correct.

5 Q. What is risk arbitrage?

6 A. Risk arbitrage is arbitraging two
7 securities generally in a context of a merger
8 transaction or a recapitalization.

9 So, by way of example, if one company
10 is buying another for stock, it generally trades at
11 a discount to the ultimate deal price, so a risk
12 arbitrageur would buy the selling company and
13 potentially sell short or use options on the
14 acquiring company. It's a form of investment.

15 Q. And what is distressed debt?

16 A. Distressed debt is credit or debt
17 securities or loans, whether they be senior or not,
18 that is of a company that is in some form of
19 distress, generally over-levered, having difficulty.
20 It's again a form of -- it's a type of investment,
21 it's an investment strategy.

22 Q. Prior to Mr. Madoff's arrest, had you
23 and Mr. Merkin at any time discussed Madoff?

24 A. Yes.

25 Q. How many times?

1 A. I would be guessing, but numerous
2 times.

3 Q. Do you recall when you discussed
4 Mr. Madoff with Mr. Merkin?

5 A. No. It's not one conversation, so I
6 don't recall one specific one, but he came up in
7 many different contexts.

8 Q. Do you recall the first time
9 Mr. Madoff came up in a discussion with Mr. Merkin?

10 A. I don't remember the first time. I
11 don't remember sequences, chronologically.

12 Q. Can you generally describe these
13 discussions with Mr. Merkin about Mr. Madoff?

14 A. There were generally two types of
15 discussions. One, periodically -- periodically, you
16 know, infrequently, but once in a while Ezra would
17 call up and in the midst of a discussion would cite
18 Mr. Madoff and say something to the effect of, you
19 know, Bernie's gotten very bullish to market. And I
20 would say, well, what do you mean by that and he
21 would say, well, Bernie has been out of the market
22 for a long period of time and Bernie three days ago
23 started buying stocks. And Bernie's always been
24 very good at timing the market, and just thought
25 you'd want to know that here's the smart guy's

1 bullish. So it would sometimes be a context like
2 that.

3 Other times it would be in the
4 context of a discussion about investment managers,
5 my guesses would be around investment committees.
6 So we might be -- I was on UJA, I was not on
7 Yeshiva, which was another one Ezra chaired. So we
8 might -- I might have asked Ezra how is UJA doing in
9 relation to how Yeshiva is doing; and there were
10 quite a number of times that, discussions like that,
11 should we look at other managers, what are you
12 looking at, what are we not. And there were a
13 number of occasions where the Yeshiva performance
14 may have been better and when I asked why, he would
15 say, Ezra would say, because Yeshiva has Madoff. So
16 those were the types of conversations we would have.

17 Q. So was it your understanding that UJA
18 did not have Madoff investments?

19 A. I was on the UJA committee and I knew
20 they didn't have it. So, yes.

21 Q. How did you respond to Mr. Merkin's
22 descriptions of Mr. Madoff?

23 MS. PRINC: Object to form.

24 A. When he talked about the market, I
25 don't -- you know, I don't recall whether I

1 commented or anything. In terms of the Yeshiva,
2 there were a couple of times I said, well, that's a
3 non-starter. Because as a fiduciary I wouldn't be
4 comfortable being a fiduciary of an endowment and
5 having investment in Madoff.

6 Q. As a fiduciary, why wouldn't you be
7 comfortable being a fiduciary and having investment
8 in Madoff?

9 MS. PRINC: Object to form.

10 A. My principal reason was the
11 accounting firm. As an individual, if one invests
12 with somebody and they don't have auditing
13 accounting firms or it's very highly speculative,
14 you have nobody to blame but yourself and if you
15 lose money, it's your own money. If you're a
16 fiduciary, you have a burden in a degree for others
17 and I did not feel comfortable if something were to
18 happen, that to me this was a potential flag. But
19 that was my personal view.

20 Q. You just said, to me this was a
21 personal flag?

22 A. No. The lack of a major accounting
23 firm to me was a red flag. But that was my
24 personal -- what I'm saying is that was my personal
25 view. Not everybody necessarily weighed that and

1 shared it and viewed it in the same way. For me, I
2 was not comfortable as a fiduciary, and wouldn't be,
3 with that.

4 Q. That was your personal opinion?

5 A. Correct.

6 Q. And you shared this opinion with
7 Mr. Merkin?

8 A. Yes.

9 Q. Were there any other red flags about
10 Mr. Madoff that you shared with Mr. Merkin?

11 MS. PRINC: Object to form.

12 A. I wouldn't call them red flags. He
13 knew I was skeptical of it. I don't recall any
14 specific other red flags.

15 Q. You mentioned that for Yeshiva Madoff
16 was a non-starter?

17 A. For UJA.

18 Q. I'm sorry. For UJA.

19 A. For UJA was a non-starter.

20 Q. I'm sorry, for UJA Madoff was a non-
21 starter?

22 A. Um-hum.

23 Q. Did you object to UJA investing with
24 Madoff?

25 A. It never came to a vote.

1 MS. PRINC: Object to form.

2 A. Not to my knowledge.

3 Q. Are you aware that Ariel Capital was
4 invested in Madoff?

5 A. I'm aware now.

6 Q. When did you become aware of that?

7 A. Same time I became aware Gabriel was,
8 which was the night Mr. Madoff was arrested.

9 Q. Were any of the other investment
10 committee members of UJA aware that Ariel Capital
11 had investments with Madoff?

12 MS. PRINC: Object to the form.

13 A. I don't know. Although at the time
14 of the arrest, UJA had no investment in Ariel. The
15 investment predated this period.

16 Q. You testified that you were invested
17 in Gabriel Capital Fund?

18 A. Yes.

19 Q. Did you use an investment vehicle to
20 place money with Gabriel?

21 MS. PRINC: Object to form.

22 A. I was invested personally, as well as
23 the Nash Family Partnership, and I believe
24 originally Jack Nash, which then became JNPN or the
25 estate of Jack Nash. But through no other vehicles,

1 to my knowledge.

2 Q. When did you initially invest in
3 Gabriel?

4 A. My initial investment was mid to late
5 '90s. I think '97, if I would guess. The other
6 entities we discussed had different dates. I think
7 Jack Nash, the first one, was 1989.

8 Q. And when did the Nash Family
9 Partnership begin investing?

10 A. Don't recall.

11 Q. Why did you personally decide to
12 invest with Gabriel?

13 A. I got to know Ezra, I thought he was
14 smart. I thought that -- I liked the strategies as
15 I understood them, being risk arbitrage and
16 distressed. I like to invest with smart people and
17 strategies I understand.

18 Q. How much did you personally have
19 invested with Gabriel?

20 A. The initial investment I believe was
21 a million and a half or \$2 million.

22 Q. And over time did you continue to
23 place money with Gabriel?

24 A. I may have added once and I know I
25 took -- I withdrew some capital at one point, as

1 A. Well, I think that any time somebody
2 invested in something that turned out they were
3 defrauded, in some measure, yes, they had the wool
4 pulled over their eyes.

5 Q. You testified that it was your
6 understanding that Gabriel Capital invested in risk
7 arbitrage and distressed debt; is that correct?

8 A. Yes.

9 Q. What is the basis for your
10 understanding of that investment strategy of
11 Gabriel?

12 A. Conversations with Mr. Merkin,
13 reading of his letters, financial statements, things
14 of that sort. Offering document.

15 (Exhibit Trustee 82 marked for
16 identification.)

17 Q. Before you is a document that has
18 been marked Trustee's exhibit number 82. Do you
19 recognize this document?

20 A. Yes.

21 Q. Can you please describe this
22 document.

23 A. This is an offering memorandum.
24 Hedge funds, private partnerships and the like
25 provide this to prospective investors. As well as,

1 obviously, their existing investors. It discusses
2 the summary of terms, summary of investment
3 philosophy, other ways of operating the fund. And
4 oftentimes has the partnership agreement as well.

5 Q. You testified that you gained an
6 understanding of Gabriel Capital's investment
7 strategy based on an offering document. Is this the
8 offering document you were referring to?

9 MS. PRINC: Object to form.

10 A. No. Because I invested -- this is
11 March 2006 and I invested way before then. I would
12 have got -- as an investor when it was amended, I
13 would have been sent this document.

14 Q. You also testified that you gained an
15 understanding of Gabriel Capital's investment
16 strategy by reading letters and reading financial
17 statements?

18 A. Um-hum. Yes.

19 Q. Did any of these materials ever
20 mention Mr. Madoff?

21 A. No.

22 MS. PRINC: Object to form.

23 A. Not to my knowledge.

24 Q. Did any of these materials that you
25 received and relied upon ever mention BLMIS?

1 MS. PRINC: Object to form.

2 A. Not to my knowledge.

3 Q. Do you know if Cerberus Capital
4 Management managed any portion of Gabriel's funds at
5 any point in time?

6 MS. PRINC: Object to form.

7 A. I know Ezra -- that Gabriel Capital
8 had lots of investments with Cerberus. How exactly
9 it was structured and whether Cerberus was legally
10 the manager, I don't know. But, yes, they invested
11 with Cerberus. And that was often in letters and I
12 believe was in the financial statements as well.
13 And Ezra would talk about it frequently.

14 Q. Was Cohanzick Capital, LP ever
15 mentioned in any of the letters and financial
16 statements of Gabriel Capital?

17 MS. PRINC: Object to form.

18 A. Don't know.

19 Q. Who did you believe managed the funds
20 in Gabriel?

21 MS. PRINC: Object to form.

22 A. I believed Ezra and people who worked
23 for Ezra, meaning he had people in offices, I didn't
24 know whether -- which of those people had investment
25 authority, but employees of Gabriel, as well as

1 Q. Can you think of any?

2 MS. TRUONG: Object to form.

3 A. Not off the top but, you know, when
4 you evaluate managers, stocks, investments, there
5 are lots of things you decide to do and lots of
6 things you decide not to do.

7 MS. PRINC: No further questions.

8 Thank you.

9 MS. TRUONG: Thank you again,
10 Mr. Nash.

11 THE WITNESS: You're welcome.

12 THE VIDEOGRAPHER: Going off the
13 record, the time is 4:57.

14 (Deposition concluded.)

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